

TITLE 3: HEALTH AND SANITATION AND ANIMAL REGULATIONS

DIVISION 2: ANIMALS

Chapter 9: Apiaries.

Sections:

- 32.091 Findings.
- 32.092 Definitions.
- 32.093 Location and Identification of Apiaries.
- 32.094 Water Supply.
- 32.095 Registration.
- 32.096 Nuisance Bees.
- 32.097 Authority to Enter Property.
- 32.098 Nuisance; Duty to Abate.
- 32.099 Service of Notice of Violation and Order.
- 32.0910 Time for Abatement.
- 32.0911 Abatement by Inspector.
- 32.0912 Summary Abatement.
- 32.0913 Appeal From Public Nuisance Notice.
- 32.0914 Payment for Abatement.
- 32.0915 Enforcement.
- 32.0916 Penalty for Violations.
- 32.0917 Injunction.

32.091 Findings.

The Board of Supervisors finds that the potential presence of "Africanized Honey Bees" and the unregulated and improper keeping of bees and apiaries in numerous locations throughout the unincorporated territory of the County of San Bernardino is a public nuisance and a hazard to the safety of landowners, users of public highways and the public generally.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.092 Definitions.

The following definitions shall apply to this chapter:

- (a) "Abate" means to remove, destroy, eliminate, seize, impound or mitigate.
- (b) "Africanized Honey Bees" means a population of hybrid bees resulting from a cross between *Apis mellifera* and *Apis mellifera scutellata*.
- (c) "Apiary" includes bees, comb, hive, appliances, or colonies, wherever they are kept, located, or found.
- (d) "Appliance" means any implement or other device which is used in handling and manipulating bees or comb, any container of bees or comb, or any other equipment which is used in the practice of apiculture.
- (e) "Bees" means honey-producing insects of the genus *Apis*. It includes all life stages of these insects.
- (f) "Colony" means one hive and its contents, including bees, comb and appliances.
- (g) "Commissioner" means the San Bernardino County Agricultural Commissioner and employees of the Department of Agriculture/Weights and Measures acting pursuant to their instructions.
- (h) "Director" means the Director of the Department of Environmental Health Services and employees of the Department of Environmental Health Services acting pursuant to their instructions.
- (i) "Hive" means any receptacle or container, or part of any receptacle or container, which is made or prepared for the use of bees, or which is inhabited by bees.
- (j) "Inspector" means any person who is authorized to enforce this Chapter.
- (k) "Location" means any premises or parcel upon which an apiary is located.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.093 Location and Identification of Apiaries.

- (a) Prior to locating or maintaining an apiary, written permission of the property owner or occupant shall be obtained, if the apiary is located on a property not owned or leased by the person responsible for the apiary.
- (b) All apiaries owned or kept within the unincorporated area of the County of San Bernardino shall be located at least one hundred (100) feet from all public roads (traveled portions) and at least two hundred (200) feet from all freeways, unless there are natural barriers to prevent bees from causing a nuisance or hazard to persons using the road or freeway.
- (c) All apiaries owned or kept within the unincorporated area of the County of San Bernardino shall be located at least five hundred (500) feet from houses or buildings, unless the owner of the apiary first obtains permission from the occupant or person in charge of the house or building.

(d) All apiaries owned or kept within the unincorporated area of the County of San Bernardino within five hundred (500) feet of school yards or places where people congregate shall be located and maintained behind barriers (natural or otherwise) of at least six (6) feet in height.

(e) No apiary shall be maintained or allowed in the unincorporated area of the County of San Bernardino if there are substantial numbers of bees from such apiary which are entering land other than where such apiary is situated and are causing a public nuisance to the extent that the health, safety or welfare of the public is endangered or property is damaged.

(f) No person shall maintain an apiary on premises other than his or her residence unless the apiary is identified by a sign that is prominently displayed on the entrance side of the apiary or stenciled on the hive that states in dark letters not less than one inch in height on a background of contrasting color, the name of the owner or person responsible for the apiary, his or her address and telephone number, or if he or she has no telephone, the telephone number of a person who has agreed in writing to be responsible for the bees.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.094 Water Supply.

Prior to placing an apiary, a plentiful supply of fresh water shall be furnished and kept available to such apiary at all times pursuant to the following methods and conditions:

- (a) A fresh water supply placed within 100 feet of the apiary, or
- (b) A stream or reservoir containing available fresh water within 300 feet of the apiary; all other sources of water available to the apiary, at locations where people or animals are present, must be one-quarter mile away from the stream or reservoir, and
- (c) All sources of water serving the apiary must be on property for which permission pursuant to section 32.093(a) has been granted or which is owned by the person responsible for the apiary.

Adopted Ordinance #1466 (1968); Amended Ordinance #1655 (1971); Amended Ordinance #3598 (1995);

32.095 Registration.

(a) Every person who is the owner or is in possession of an apiary which is located within the unincorporated area of the County of San Bernardino, on the first day of January of each year, or within thirty (30) days thereafter, shall register the number of colonies in each apiary and the location of each apiary. The registration is valid until January 1 of the following year.

(b) Every person who moves bees into the unincorporated area of the County of San Bernardino or otherwise comes into possession of an apiary located within the unincorporated area of the County of San Bernardino, after the first day of January shall within thirty (30) days register the apiary moved or so acquired.

(c) Registration of an apiary shall be filed with the San Bernardino County Agricultural Commissioner. The Commissioner shall adopt a form of registration to be used County-wide.

(d) Each beekeeper, apiary owner, apiary operator, or person in possession of any apiary, shall pay, in addition to any other fees required by law, an annual registration fee to cover the costs of apiary registration and late fees, if applicable, in the amount specified in Chapter 2 of Division 6 of Title 1 of the San Bernardino County Code.

Adopted Ordinance #1466 (1968); Amended Ordinance #1655 (1971); Amended Ordinance #3598 (1995);

32.096 Nuisance Bees.

Bees shall be considered a public nuisance when they interfere with the normal use of private or public property or have been involved in a multiple stinging incident of five (5) or more stings to an animal or person. Bees known to be Africanized Honey Bees are declared a public nuisance in any situation.

Adopted Ordinance #1466 (1968); Amended Ordinance 2348 (1979); Amended Ordinance #3598 (1995);

32.097 Authority to Enter Property.

(a) For the purpose of enforcing or administering this chapter, the Commissioner, Director or any inspector acting under their direction, upon presentation of credentials or, if necessary under the circumstances, after obtaining a warrant pursuant to Title 13 (commencing with section 1822.5) of Part 3 of the Code of Civil Procedure, has the right of entry to any property owned, used, leased, or rented by any owner or keeper of any apiary in order to inspect such property and apiary for compliance with this chapter.

(b) No person shall interfere with the entry of an inspector in the official course of his or her duty.

(c) The inspector shall report the results of the inspection to the owner or person in charge or possession of the property, where feasible, within five days of the inspection.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.098 Nuisance; Duty to Abate

Any property or apiary in violation of this Chapter is a public nuisance. The owner or person in charge or possession of any such nuisance, upon receiving notice of the violation, shall correct or abate the violation within the time specified in the notice.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.099 Service of Notice of Violation and Order.

The notice and order may be served upon the owner or the person in charge or possession of the apiary or bees personally or by certified mail to their last known address. If the owner or person in charge or possession is not known, the notice shall be served by posting it in a conspicuous place on the property where the apiary or bees are located.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.0910 Time for Abatement.

The time specified in the notice for abatement of the nuisance shall not be more than 48 hours from the time the notice is served, except that the inspector may extend the time limit if necessary to prevent hardship and it can be done without danger to persons or property.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.0911 Abatement by Inspector.

If the owner or person in charge or possession cannot be located after diligent search by the inspector, or if notice has been served pursuant to this Chapter and the owner or person in charge or possession refuses or neglects to abate the nuisance within the time specified in the notice, the inspector shall abate the public nuisance within 72 hours after expiration of the time which is specified in the notice. The cost of abatement shall be paid by the owner of the property.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.0912 Summary Abatement.

If the inspector, in his or her judgment, believes summary abatement is necessary, the inspector may do so, or require that abatement be performed under his or her direct supervision. The inspector may also post an order to abate in a conspicuous place in the apiary or on the property. No person who has been given notice of the order to abate shall move the property or any part of the property or any other bee equipment from the location unless authorized by the inspector, until the order to abate is released.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.0913 Appeal From Public Nuisance Notice.

(a) If an abatement notice has been served upon the owner or lessee of the property, the owner or lessee, before the expiration of the time specified in the notice, may appeal from the inspector's determination of the public nuisance named in the notice by sending a written appeal to the issuing department stating the reason for the appeal. The appeal hearing shall be held before the Commissioner or Director or their designee at the time and place set by the Commissioner or Director.

(b) Pending the hearing and determination of the Commissioner or Director regarding the public nuisance, the time which is specified in the abatement notice shall be extended by the number of days between the forwarding of the appeal and the receipt by the owner or lessee of the property where the apiary or bees are located that made the written appeal of the written determination of the Commissioner or Director.

Adopted Ordinance #1466 (1968); Amended Ordinance #1655 (1971); Amended Ordinance #2348 (1979); Amended Ordinance #3598 (1995);

32.0914 Payment for Abatement.

(a) Billing. When the abatement has been completed, the agency or officer so causing the abatement shall render to the County Auditor an itemized statement covering work necessary for such abatement. The County Auditor shall pay the same from the funds of the agency or officer causing said work to be done and the agency shall present to the property owner a demand for payment of the cost of abatement by mailing notice to the owner at the address shown on the latest tax roll. If payment is not made by or on behalf of the owner within sixty (60) days after

mailing such bill, the Commissioner or Director shall collect the bill by any legal means and charge all costs of collection to the debtor.

(b) Appeals. Any appeal from these charges must be filed within sixty (60) days from the date of mailing of the billing. The appeal procedure shall be the same as section 32.0913 of this Chapter, and the decision of the Commissioner or Director shall be final.

(c) Cancellation of Claim. All or any portion of any such costs or penalty heretofore entered shall, on order of the Commissioner or Director, be cancelled if uncollected or refunded if collected, if they were entered, charged or paid:

(1) More than once.

(2) Through clerical error.

(3) Through error or mistake of the Commissioner or Director or of the officer or board designated by them to give notice or to abate the nuisance, in respect to any material fact, including the case where the cost report rendered and confirmed as hereinbefore provided shows the County abated the nuisance but such is not the actual fact;

(4) Illegally;

(d) Procedure for Refund of Payment. No order for a cancellation or refund under subdivision (c) of this section shall be made except on a claim:

(1) Verified by the person who paid the special assessment, his or her guardian, executor or administrator;

(2) Filed within sixty (60) days after the error was discovered by the property owner or lessee and no more than three (3) years after making the payment sought to be refunded.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.0915 Enforcement.

The provisions of this Chapter may be enforced by the authorized representatives of the County Department of Agriculture/Weights and Measures or the Department of Environmental Health Services.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.0916 Penalty for Violations.

(a) Unless otherwise provided, any person, firm, partnership, corporation or other entity violating any provision of this Chapter shall be guilty of an infraction or misdemeanor as hereinafter specified.

(b) Each day or portion thereof such violation is in existence shall be a new and separate offense.

(c) Any person so convicted shall be:

(1) Guilty of an infraction offense and punished by a fine not exceeding one hundred dollars (\$100.00) and not less than fifty dollars (\$50.00) for a first offense;

(2) Guilty of an infraction offense and punished by a fine not exceeding two hundred dollars (\$200.00) and not less than one hundred dollars (\$100.00) for a second offense.

(3) Guilty of a misdemeanor for the third and any additional offenses and punished by a fine not exceeding one thousand dollars (\$1,000.00) and not less than five hundred dollars (\$500.00) or six (6) months in jail, or both.

(4) Notwithstanding the above, a first or second offense may be charged and prosecuted as a misdemeanor.

(d) Payment of any fine or service of a jail sentence herein provided shall not relieve a person, firm, partnership, corporation or other entity from the responsibility of correcting the condition resulting from the violation.

(e) In addition to the above penalties, the court may order that the guilty party reimburse the County for all of its costs of investigating, analyzing and prosecuting the enforcement action against the guilty party. The court shall fix the amount of any such reimbursement upon submission of proof of such costs by the County.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);

32.0917 Injunction.

Any violation of this Chapter is hereby declared to be unlawful and a public nuisance. Upon request of the Commissioner or Director, an action for injunctive relief may be commenced for the abatement, removal and enjoinder thereof in the manner provided by law. Application shall be made to such court or courts which have jurisdiction to grant such relief, to abate or remove such use and restrain and enjoin any person from using any property contrary to the provisions of this Chapter.

Adopted Ordinance #1466 (1968); Amended Ordinance #3598 (1995);